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EXAMINER	
SWEARINGEN, JEFFREY R	

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/916,515	TSURU, KAORU	
	Examiner	Art Unit	
	Jeffrey R. Swearingen	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35.U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 July 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-23 have been examined.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

3. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

4. The effective filing date of this application is 30 July 2001.

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 4, item c; Figure 10, item h; Figure 11, item j. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The abstract of the disclosure is objected to because of numerous technical references that refer to content in the drawings. Correction is required. See MPEP § 608.01(b).

7. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

8. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of . which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. **Claim 11** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding **claim 11**, the claim states that the *search request transmitting destination information storing section does not add the specific data holding apparatus in the search request transmitting destination information in a given condition.* What is encompassed by a *given condition* is not reasonably addressed in the claims or in the specification and is considered indefinite. It would require undue

experimentation by one of ordinary skill in the art to build and implement the invention without a clear and concise definition of what Applicant means by *given condition*.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. **Claims 1-5, 10-12, 15-17, 22** rejected under 35 U.S.C. 102(e) as being anticipated by Dutta et al. (U.S. Pub. No. 2002/0073075).

14. Regarding **claim 1**, Dutta discloses a data communication apparatus connected to at least more than one of data holding apparatuses, the data communication apparatus being allowed to use at least a part of data held by the data holding apparatuses as shared data, the data communication apparatus comprising: *a search request generating and transmitting section for generating a search request which requests a data holding apparatus to search shared data corresponding to a given search condition from the shared data held by the data holding apparatus, and for transmitting the search request generated to the data holding apparatus;* [Dutta discloses searching a peer-to-peer network for files based upon a search term entered by the user. See Dutta, page 3, paragraph 0038-0039. See Dutta, page 3, paragraph 0043. See Dutta, Figure 6A, item 602] *a search result receiving section for receiving a search result for the search request from the data holding apparatus;* [Dutta discloses that the client receives the results of the search. See Dutta, page 3, paragraph 0038-0039. See Dutta, page 3, paragraph 0043. See Dutta, page 4, paragraph 0047. See Dutta, Figure 6A, item 602] *a data transmission request generating and transmitting section for generating a data transmission request which requests to transmit shared data searched based on the search result received by the search result receiving section, and for*

transmitting the data transmission request generated to the data holding apparatus; [Dutta discloses the ability to download a file retrieved from a search hit. To download a file, a request must be made from the client to the host to initiate the download. See Dutta, page 4, paragraph 0047] *and a data receiving section for receiving shared data requested to be transmitted by the data transmission request from the data holding apparatus to which the data transmission request is transmitted by the data transmission request generating and transmitting section.* [Dutta discloses downloading a file based on a search hit. Downloading is considered by Examiner to be equivalent to transmitting. See Dutta, page 4, paragraph 0047] By this rationale **claim 1** is rejected.

15. Regarding **claim 2**, Dutta is applied as in claim 1. Dutta further discloses *the search request generating and transmitting section generates the search request which requests the data holding apparatuses to search shared data which associates with a specific keyword.* [Dutta discloses a user entering a search term from which a search query message is generated. See Dutta, page 3, paragraph 0043. Examiner considers a search term to be a specific keyword.] By this rationale **claim 2** is rejected.

16. Regarding **claim 3**, Dutta is applied as in claim 1. Dutta further discloses *the search request generating and transmitting section which transmits the search request, respectively, to all the data holding apparatuses connected with the data communication apparatus.* [Dutta discloses copying a search query to peer nodes connected to the requesting node. See Dutta, page 3, paragraph 0038]. By this rationale **claim 3** is rejected.

17. Regarding **claim 4**, Dutta is applied as in claim 1. Dutta further discloses a search request transmitting destination information storing section for storing search request transmitting destination information which specifies a certain number of the data holding apparatuses as destinations to which the search request is transmitted; wherein the search request generating and transmitting section transmits the search request to the certain number of the data holding apparatuses specified in the search request transmitting destination information stored in the search request transmitting destination information storing section. [Dutta discloses a connection host list (search request transmitting destination information storing section). The search query (request) is copied to the nodes in the connection host list. Examiner

considers the connection host list to specify a certain number of the data holding apparatuses as destinations. See Dutta, page 3, paragraph 0038.] By this rationale **claim 4** is rejected.

18. Regarding **claim 5**, Dutta is applied as in claim 1. Dutta further discloses the search request transmitting destination information storing section stores a plurality of search request transmitting destination information; and wherein the search request generating and transmitting section transmits the search request to a certain number of data holding apparatuses specified in specific search request transmitting destination information out of the plurality of search request transmitting destination information. [Dutta discloses that peer-to-peer networks send out queries that are relayed from peer to peer until the time-to-live value expires. Examiner considers this transmitting the query to a certain number of data holding apparatuses specified in search request transmitting destination information. See Dutta, page 1, paragraph 0007.] By this rationale **claim 5** is rejected.

19. Regarding **claim 10**, Dutta is applied as in claim 4. Dutta further discloses *an identification information communicating section for receiving from a specific data holding apparatus identification information on the specific data holding apparatus; wherein the search request transmitting destination information storing section stores the specific data holding apparatus in the search request transmitting destination information by using the identification information of the specific data holding apparatus received by the identification information communicating section.* [Dutta discloses users can register to create a personal account for accessing the peer-to-peer network. The user must supply technical information about their connection to the network before the connection can be established. See Dutta, page 4, paragraphs 0053-0054. Once the connection is established, the node can receive a search request. Technical information about the connection is considered *specific data holding apparatus destination identification information.*] By this rationale **claim 10** is rejected.

20. Regarding **claim 11**, Dutta is applied as in claim 10. Dutta further discloses *the search request transmitting destination information storing section does not add the specific data holding apparatus in the search request transmitting destination information in a given condition.* [Dutta discloses that a root node may be required to be associated with a person in order for it to be registered. See Dutta, page 5, paragraph 0055.] By this rationale **claim 11** is rejected.

21. Regarding **claim 12**, Dutta is applied as in claim 10. Dutta further discloses *the identification information communicating section transmits identification information on the data communication apparatus to a plurality of data holding apparatuses and receives identification information from each of the plurality of data holding apparatuses; wherein the search request transmitting destination information storing section stores the plurality of data holding apparatuses in the search request transmitting destination information by using the identification information on each of the plurality of data holding apparatuses received by the identification information communicating section.* [Dutta discloses that registrations have been accepted from users who desire to act as root nodes. Registration is receiving identification information. The registered root node lists is a connection host list. Each peer node has a connection host list to which they are connected. See Dutta, page 3, paragraph 0040. See Dutta, page 4, paragraph 0053. The search is sent to other root nodes based on the topology of the peer-to-peer network. See Dutta, page 3, paragraphs 0040-0041.] By this rationale **claim 12** is rejected.

22. Regarding **claim 15**, Dutta is applied as in claim 1. Dutta further discloses *a shared data storing section for storing data which the data communication apparatus holds as the shared data with the data holding apparatuses;* [Dutta discloses the ability of a user to specify a list of files that the user is willing to share. See Dutta, page 3, paragraph 0039. See Dutta, Figure 2C, item 264.] *a search executing section for receiving a search request from a specific data holding apparatus, the search request requesting to search shared data corresponding to a given search condition from the shared data stored in the shared data storing section, for searching the shared data corresponding to the search condition based on the search request received, and for transmitting a search result to the specific data holding apparatus;* [Dutta discloses searching a peer-to-peer network for files based upon a search term entered by the user. See Dutta, page 3, paragraph 0038-0039. See Dutta, page 3, paragraph 0043. See Dutta, Figure 6A, item 602] *a data transmission request receiving section for receiving from the specific data holding apparatus a data transmission request which requests to transmit shared data searched by the search executing section;* [Dutta discloses the ability to download a file retrieved from a search hit. To download a file, a request must be made from the client to the host to initiate the download. See Dutta, page 4, paragraph 0047] *and a data transmitting section for transmitting shared data requested to be transmitted to the*

specific data holding apparatus based on the data transmission request received by the data transmission request receiving section. [Dutta discloses downloading a file based on a search hit. Downloading is considered by Examiner to be equivalent to transmitting. See Dutta, page 4, paragraph 0047] By this rationale **claim 15** is rejected.

23. Regarding **claim 16**, the limitations of this claim are substantially the same as the limitations of claim 15. Therefore the grounds for rejecting claim 15 are used to reject claim 16. By this rationale **claim 16** is rejected.

24. Regarding **claim 17**, Dutta is applied as in claim 15. Dutta further discloses *an index generating section for generating an index of the shared data stored in the shared data storing section; wherein the search executing section searches the shared data corresponding to the search condition by using the index generated by the index generating section.* [Dutta discloses searching through a previously generated index for content that satisfies the user query. Examiner considers user query to be a search condition. See Dutta, page 4, paragraphs 0051-0052. See Dutta, page 5, paragraph 0064.] By this rationale **claim 17** is rejected.

25. Regarding **claim 22**, the limitations of this claim are substantially the same as the limitations of claim 15. Therefore the grounds for rejecting claim 15 are used to reject claim 22. By this rationale **claim 22** is rejected.

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

27. **Claims 9, 13, 18-20** rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta and Meadway et al. (U.S. Patent No. 6,675,205).

28. Regarding **claim 9**, Dutta is applied as in claim 1. Dutta fails to disclose *a search request history information storing section for storing search request history information which indicates for each search*

request a set of a search condition and corresponding search result for the search request; wherein the search request generating and transmitting section extracts a specific search condition from the search request history information stored in the search request history information storing section, and notifies the search result receiving section of a search result corresponding to the specific search condition extracted.

29. However, Meadway discloses a queue of file requests that retrieves the file requested when it becomes available on a peer system. [See Meadway, column 1, lines 53-59.] Examiner considers a queue of file requests to be *search request history information* stored in a *search request history information storing section* and sending the requested file to the requesting peer when it becomes available is considered equivalent to *extract*[ing] *a specific search condition from the search request history information...and notif*[ying] *the search result receiving section of a search result corresponding to the specific search condition extracted.*

30. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Dutta and Meadway for the purpose of updating a file system to inform requesting peers of the current state of peers that are present and the files they maintain. [See Meadway, column 2, lines 21-25. See Meadway, column 2, lines 6-8.] Dutta provides motivation for the combination by stating that the information about the search hit (information within the URLs) may vary with the manner in which the server stores the search results. [See Dutta, page 6, paragraph 0066]. By this rationale **claim 9** is rejected.

31. Regarding **claim 13**, Dutta is applied as in claim 1. Dutta fails to disclose *an update confirmation requesting section for transmitting an update confirmation request which requests a specific data holding apparatus to confirm that specific shared data is updated or not; wherein the data receiving section receives the specific shared data being updated from the specific data holding apparatus based upon a confirmation of the specific shared data being updated by the specific data holding apparatus.*

32. However, Meadway discloses updating site records on a central server if digital signatures on the central server and the host do not match. [See Meadway, column 12, lines 11-28] Examiner considers updating site records if the digital signatures do not match to be equivalent to *transmitting an update*

request to confirm that shared data is updated and receiving updated shared data if it is confirmed that shared data is updated.

33. The motivation for this combination is the same motivation as the combination in claim 9. By this rationale **claim 13** is rejected.

34. Pertaining to **claim 18**, Dutta is applied as in claim 17. Dutta fails to disclose generating multiple indexes with individual identifiers and searching by using an index with an identifier.

35. However, Meadway discloses using a plurality of indexes [See Meadway, column 6, lines 27-31]. The indexes are searchable after parsing the query to determine which set of the index to search. Having indexes with sets is considered by Examiner to be indexes with identifiers.

36. The motivation for this combination is the same motivation as the combination in claim 9. By this rationale **claim 18** is rejected.

37. Pertaining to **claim 19**, Dutta is applied as in claim 17. Dutta fails to disclose reindexing when the shared data changes in a host peer.

38. However, Meadway discloses that when a file is detected as being modified, references to it are sent to a central index. [See Meadway, column 11, lines 40-51]

39. The motivation for this combination is the same motivation as the combination in claim 9. By this rational **claim 19** is rejected.

40. Pertaining to **claim 20**, Dutta is applied as in claim 15. The limitations of this claim are substantially the same as those of claim 13, with the additional limitations of claim 15 being also taught in Dutta. Therefore the rationale for rejecting claim 13 is applicable for rejecting claim 20 with the additional limitations used in rejecting claim 15 using Dutta applied. By this rationale **claim 20** is rejected.

41. **Claims 21, 23** rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta and KaAaA Help and FAQ – "Frequently Asked Questions" (http://web.archive.org/web/20001201203200/www.kazaacom/index.php?page=help. December 1, 2000).

42. Regarding **claim 21**, Dutta is applied as in claim 15. Dutta fails to disclose *stor*[ing] *the shared data received by the data receiving section.*

43. However, KaZaA Help and FAQ states that files downloaded with KaZaA Media Desktop are saved by default in My Shared Folder [See KaZaA Help and FAQ, page 8.]. Files in My Shared Folder are shared on the peer-to-peer network. [See KaZaA Help and FAQ, page 7.]

44. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Dutta and KaZaA Help and FAQ for the purpose of sharing downloaded files on a peer-to-peer network [See KaZaA Help and FAQ, page 8.] and searching a peer-to-peer network more accurately [See KaZaA Help and FAQ, page 3]. Dutta gives motivation for the combination by stating that it would be advantageous to use aspects of peer-to-peer networks to assist in obtaining relevant search results. [See Dutta, page 1, paragraph 0008]. By this rationale **claim 21** is rejected.

45. Regarding **claim 23**, the limitations of this claim are substantially the same as those of claim 21. Therefore the rationale used in rejecting claim 21 is used to reject claim 23. By this rationale **claim 23** is rejected.

46. **Claims 6, 14** rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta and Dutta et al. (U.S. Pub. No. 2002/0138471, hereafter referred to as 471).

47. Regarding **claim 6**, Dutta is applied as in claim 5. Dutta fails to disclose *the search request transmitting destination information storing section stores the plurality of search request transmitting destination information storing section stores the plurality of search request transmitting destination information each having an individual identifier being set respectively, and wherein the search request generating and transmitting section generates the search request including an identifier being set to the specific search request transmitting destination information, and transmits the search request generated to the certain number of data holding apparatuses specified in the specific search request transmitting destination information.* [Dutta fails to disclose searching a specific location.]

48. However, 471 discloses a method of rating peer nodes. The peer nodes with the highest rating are identified as nodes that the search query should look at first. Identifying these priority peer nodes is equivalent to *having an order of transmitting the search request.* Having a rating method for peer nodes

is considered equivalent to *setting the order of transmission based on a counted result on the number of data reception (number of downloads).*

49. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Dutta and 471 for the purpose of increasing the ability of a peer-to-peer search to find relevant content based on prior usage and download patterns. [See 471, page 4, paragraph 0051.] Dutta gives motivation for the combination by stating it would be particularly advantageous to use aspects of peer-to-peer networks to assist in obtaining relevant search results. [See Dutta, page 1, paragraph 0008.] By this rationale **claim 6** is rejected.

50. Regarding **claim 14**, Dutta is applied as in claim 4. Dutta fails to disclose *the search request transmitting destination information storing section stores search request transmission designation information having an order of transmitting the search request being set for each of the certain number of data holding apparatuses; wherein the data communication apparatus further comprises a data reception number counting section for counting a number of data reception by the data receiving section for each of data holding apparatuses which transmitted shared data to the data receiving section, and for setting for each of the certain number of data holding apparatuses the order of transmitting the search request based on a counted result on the number of data reception.*

51. However, 471 discloses a method of rating peer nodes. The peer nodes with the highest rating are identified as nodes that the search query should look at first. Identifying these priority peer nodes is equivalent to *having an order of transmitting the search request.* Having a rating method for peer nodes is considered equivalent to *setting the order of transmission based on a counted result on the number of data reception (number of downloads).*

52. The motivation for this combination is the same as the motivation for the combination used in claim 6. By this rationale **claim 14** is rejected.

53. **Claim 8** rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta and Delaney et al. (U.S. Pub. No. 2001/0027479, hereafter referred to as Delaney).

54. Regarding **claim 8**, Dutta is applied as in claim 4. Dutta fails to disclose *the search request transmitting destination information storing section stores a search request transmitting destination*

information including an order of transmitting the search request being set for each of the certain number of data holding apparatuses; and wherein the data communication apparatus further comprises a transmission order setting section for transmitting test data to each of the certain number of data holding apparatuses, receiving a response to the test data from each of the certain number of data holding apparatuses, measuring a time between the transmission of the test data and the reception of the response to the test data for each of the certain number of data holding apparatuses, and for setting an order of transmitting the search request for each of the certain number of data holding apparatuses based on a measured result of each of the certain number of data holding apparatuses. [Dutta fails to disclose measuring the response time of peer nodes to a request.]

55. However, Delaney discloses optimizing polling (request/response) traffic on peer nodes. Examiner considers this equivalent to *transmitting test data* to each node, *receiving a response to the test data*, *measuring a time between transmission and response*, and setting an order based on the measured result. [See Delaney, page 6, paragraph 0069.]

56. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Dutta and Dulaney for the purpose of preventing an increase in network traffic. [See Dulaney, page 5, paragraph 0055. See Dulaney, page 5, paragraph 0062.] Dutta gives motivation for the combination by stating that a query hit [response] can contain the connection speed of the responding node and other information. [See Dutta, page 4, paragraph 0046.] By this rationale **claim 8** is rejected.

57. **Claim 7** rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta and Faybishenko et al. (U.S. Pub. No. 2003/0055818, hereafter referred to as Faybishenko).

58. Regarding **claim 7**, Dutta is applied as in claim 1. Dutta fails to disclose *the search request generating and transmitting section gradually transmits the search request through a plurality of stages to a plurality of data holding apparatuses according to a given transmission order; wherein the search result receiving section notifies the search request generating and transmitting section of stopping transmission of the search request, upon reception of a given number of search results; and wherein the search request generating and transmitting section stops the transmission of the search request based on a*

notification of stopping the transmission of the search request from the search result receiving section. [Dutta fails to disclose terminating a search upon receiving a certain number of hits.]

59. However, Faybishenko discloses that request [*search request*] message may include optional attributes, including a maximum number of hits from a provider, a maximum query lifetime, and a maximum number of providers to forward the query to. Examiner considers this equivalent to *stopping transmission of the search request upon reception of a given number of search results.* [See Faybishenko, page 7, paragraph 0071].

60. It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Dutta and Faybishenko for the purpose of adequately defining query information. [See Faybishenko, page 6, paragraph 0064.] Dutta gives motivation for the combination by stating special codes within a [query] message header indicate the type of message. [See Dutta, page 3, paragraph 0043.] The two teachings are analogous because both deal with searching in peer-to-peer networks. By this rationale **claim 7** is rejected.

Conclusion

61. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pub. No. 2003/0145093 Oren et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffrey R. Swearingen
Examiner
Art Unit 2145

JRS

BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER